

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

SAMUEL H. WILLIAMS,

Plaintiff,

v.

MAUSEEN SAUBLE,

Defendant.

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No. 08-4218-CV-C-NKL

ORDER

On April 7, 2009, United States Magistrate Judge William A. Knox recommended that plaintiff's motions of December 31, 2008, and February 24, 2009, for injunctive relief be denied. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C). No exceptions have been filed.

A review of the record convinces the court that the recommendation of the Magistrate Judge is correct and should be adopted.

Plaintiff has requested reconsideration of the dismissal of some claims and defendants. He again wants to challenge his confinement in jail and to bring claims against the prosecutor, public defender and others. Such claims are improper under 42 U.S.C. § 1983, and his request must be denied.

On April 16, 2009, plaintiff filed a notice of appeal and request for leave to proceed in forma pauperis on appeal. Plaintiff's notice of appeal triggers the assessment of the appellate filing fee in the amount of \$455.00, and constitutes consent for the deduction of that fee from his inmate account. 28 U.S.C. § 1915; Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997).

An appeal in forma pauperis, however, may not be taken if the court certifies, in writing, that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). The court finds plaintiff's appeal is not taken in good faith because a final judgment has not been entered and there are issues in the case that have not been ruled.

Although the district court is denying plaintiff leave to proceed in forma pauperis on appeal, he may still seek to proceed under 28 U.S.C. § 1915, by filing with the appellate court a timely motion under Rule 24(a) of the Federal Rules of Appellate Procedure. Plaintiff also may pursue his appeal as a regular appellant, without the benefit of 28 U.S.C. § 1915, by paying the full appellate filing fee to the clerk of the district court within thirty days. If plaintiff does not file a Rule 24(a) motion or pursue his appeal as a regular appellant, his appeal may be dismissed by the appellate court.

The denial of in forma pauperis status by the district court does not relieve plaintiff of the obligation to pay the appellate filing fee. Plaintiff's inmate account statement, however, indicates he currently has no money in his account. As funds become available, plaintiff will be required to make payments toward the filing fee.


THEREFORE, IT IS ORDERED that plaintiff's appeal is not taken in good faith and plaintiff is denied leave to proceed in forma pauperis on appeal. [37] It is further

ORDERED that the Greene County Justice Center is directed to deduct from plaintiff's inmate account, and forward to the court, if sufficient funds become available, installment payments in accord with the provisions of 28 U.S.C. § 1915, until the \$455.00 appellate filing fee is paid in full. It is further

ORDERED that plaintiff's motions¹ for reconsideration are denied. [14, 16, 25] It is further

ORDERED that the Report and Recommendation of April 7, 2009, is adopted. [34] It is further

ORDERED that plaintiff's motions of December 31, 2008, and February 24, 2009, for injunctive relief are denied. [18, 26]


NANETTE K. LAUGHREY
United States District Judge

Dated: 7-31-09
Jefferson City, Missouri

¹Documents 14 and 16 appear to be identical.